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Note verbale dated 29 October 2004 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Brazil has the honour to transmit the report of the Government of Brazil to the Committee (see annex).

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Annex to the note verbale dated 29 October 2004 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

Report of the Federative Republic of Brazil submitted in accordance with Security Council resolution 1540 (2004)

28 October 2004

CONTENTS

i. Operative Paragraph 1 ..... page 3

ii. Operative Paragraph 2 4

iii. Operative Paragraph 3(a) 9

iv. Operative Paragraph 3(b) 12

v. Operative Paragraph 3(c) 14

vi. Operative Paragraph 3(d) 15

vii. Operative Paragraph 6 16

viii. Operative Paragraph 8(a) 18

ix. Operative Paragraph 8(b) 23

x. Operative Paragraph 8(d) 24

xi. Operative Paragraph 10 25

1. Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Brazil is fully committed to the objectives of non-proliferation of weapons of mass destruction (WMDs) and to the international efforts aimed at preventing non-State actors from gaining access to those weapons, as well as to related materials and technology.

For Brazil, a consistent and sustainable long-term international strategy must be necessarily followed by concrete measures in the field of disarmament. Brazil is convinced that only the complete elimination of WMDs can ensure that these weapons will never fall in the hands of non-State actors.

Brazil also believes that an effective combat to the threat posed by non-State actors gaining access to WMDs requires not only the implementation of consistent and adequate national legislation by Member States but also the engagement and cooperation of the international community. For that reason, besides establishing and implementing a vigorous national legislation on this subject, Brazil has adhered to and fully complies with all obligations stipulated by relevant international instruments in the fields of disarmament and non-proliferation.

Brazil has been implementing, in full, all obligations contained in Security Council Resolutions 1373 (2001) and 1540 (2004).

ii. Operative paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Brazil has incorporated all guidelines related to control and protection of sensitive materials, equipment and technology that may be used for the production of WMDs stipulated by international treaties, such as Tlatelolco, NPT, CWC, BWC and CTBT, and by export regime controls to which the country is Party, such as the NSG and the MTCR. It has also integrated into its national legislation other guidelines adopted by international organizations, namely the IAEA and the IMO. Besides that, Brazil possesses an adequate and efficient national legislation that defines and penalizes, among others, crimes of terrorism and sabotage, extensive to all actors that may provide any form of support, active or passive, to such acts. The Brazilian national legislation is grounded on three essential legal instruments:

1) the Federal Constitution of 1988[1] determines that "the practice of (...) of terrorism and crimes defined as heinous crimes shall be considered by law as non-bailable and not subject to grace or amnesty, and their principals, agents and those who omit themselves while being able to avoid such crimes shall be held liable";

2) the National Security Act[2] (Act no. 7.170, of December 14, 1983) defines and penalizes crimes against national security, the political and social order, including those of terrorism, sabotage and transfer, storage and dissemination of military material;

3) the Heinous Crimes Act (Act no. 8.072, of July 25, 1990)[3] defines, as heinous (crimes of particular gravity, for which severe penalties are provided), offences and crimes defined under the Brazilian Penal Code[4], rendering them non-bailable and not subject to amnesty, grace or indult. Crimes of terrorism, genocide and of the inducement of epidemics by the release of pathogens into the atmosphere are included in this list.

- Legal controls on transfer, production and storage of sensitive materials, related equipment and technology

[1] Brazilian Federal Constitution, Article 5th, XLIII. Text in English available at: http://webthes.senado.gov.br/web/const/const88.pdf

[2] Published in the "Official Journal of the Union" ("Diário Oficial da União") in December 15, 1983. Texts in Portuguese of all Acts quoted in this report are available at: https//www.planalto.gov.br

[3] Published in the "Official Journal of the Union" in July 26, 1990. Text in Portuguese is available at https://www.planalto.gov.br

[4] Decree-Law no. 2.848 of December 12, 1940, revised by Law no. 9.777 in December 26, 1998. Text in Portuguese available at https://www.planalto.gov.br

Brazil exerts control on international transfers of materials with possible applications to WMDs in accordance with Act no. 9.112, of October 10, 1995[5]. This Act defines as sensitive goods: all those with possible military applications; dual-use goods; and those that may be used in nuclear, chemical and biological fields, as well as their means of delivery. It also establishes export controls on these goods and on services directly related to them.

A. Nuclear

Besides the obligations derived from the Non-Proliferation Treaty (NPT) and the incorporation in its national legislation of the guidelines adopted in the context of the Nuclear Suppliers Group (NSG), of which it is a member, Brazil has developed specific national legislation for the control of every nuclear activity, including definition of offences and stipulation of penalties for activities not authorized by the Government in this field.

- the Federal Constitution of 1988[6] determines that "all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress";

- Act No. 4.118, of August 27, 1962[7], creates the National Commission for Nuclear Energy (CNEN), determines that all activities related to the nuclear field (transfer, possession, development, production etc) are a monopoly of the State; provides that control of these activities is incumbent upon CNEN; defines as a crime against national security the clandestine export or import of nuclear materials (Article 39) and forbids the possession or transfer of nuclear materials, including sub-products, without explicit authorization from CNEN, even within the internal market (Article 40).

- Act No. 6.453, of October 17, 1977[8], establishes civil responsibility for nuclear damages and criminal responsibility for acts related to nuclear activities. It defines and penalizes the production, processing, supplying and use of nuclear material without necessary authorization or for other purposes than those allowed by law (Article 20), as well as the export and import of nuclear material without due official license (Article 25). If related to terrorist acts, the penalties associated to these offences are cumulative to those provided for crimes of terrorism.

B. Chemical

Besides obligations derived from the CWC, adopted internally by Legislative Decree no. 9, of March 6, 1996[9], Brazil exerts strict control over all activities involving transfer, production and storage of chemical materials.

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[5] Published in the "Official Journal of the Union" in October 11, 1995. Text in Portuguese available at https://www.planalto.gov.br

[6] Federal Constitution, Article 21, paragraph XXIII, literal "a".

[7] Published in the "Official Journal of the Union" of August 27, 1962. Text in Portuguese available at https://www.planalto.gov.br

[8] Published in the "Official Journal of the Union" of October 17, 1977. Text in Portuguese available at https://www.planalto.gov.br

[9] Published in the "Official Journal of the Union" of February 2, 1996. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/9_96.htm

- Decree No. 2.074, of November 14, 1996[10], establishes the Inter-ministerial Commission for the application of the provisions of the International Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) and defines the obligations and responsibilities derived from the CWC. The decree provides that no natural or legal person shall carry out or contribute in any form to activities forbidden by the CWC or refuse to collaborate with the Inter-ministerial Commission in the conduct of its work (Article 3, paragraphs 1, 2 and 3).

- Decree no. 3.665, of November 20, 2000[11], updates document "Regulations for the Supervision of Controlled Products" (R-105), contained in Decree no. 24.602, of July 6, 1934[12]. This decree stresses the need for formal authorization by the Brazilian Army to any activities related to the production, reprocessing, maintenance, industrial use, handling, sportive use with the purpose of collection, export, import, customs clearance, storage, trade and trafficking of products contained in the Annex I of the document "Regulations for the Supervision of Controlled Products"(R-105), where all chemical agents dealt with by the CWC are listed.

- Provisional Measure No. 2.186-16, of August 23, 2001[13], forbids "access to genetic heritage with the aim of (…) developing biological and chemical weapons" (Article 5).

C. Biological

Besides the obligations derived from BWC and provisions contained in the Brazilian Penal Code (Decree no. 2.848, of December 7, 1940) which defines and penalizes various crimes related to the non-authorized manipulation of biological agents[14], the Brazilian legislation presents a legal framework that imposes a strict control of all activities in the biological field:

- the Federal Constitution of 1988 (Article 225, paragraph 1, II and V) determines that "it is incumbent upon the Government (…) to control entities engaged in research and manipulation of genetic material" and to "control the

[10] Published in the "Official Journal of the Union" of November 11, 1996. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/2074_96.htm

[11] Published in the "Official Journal of the Union" of November 20, 2000. Text in Portuguese available at https://www.planalto.gov.br

[12] Published in the "Official Journal of the Union" of July 6, 1934. Text in Portuguese available at https://www.planalto.gov.br

[13] Published in the "Official Journal of the Union" of August 24, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/mp/mp2186-16.htm

[14] Among other provisions contained in the Brazilian Penal Code, see: "to offend someone's physical integrity or health"(Article 129); "to carry out an action, with the purpose of transmitting to someone a grave infection with which one is contaminated, capable of transmitting the infection" (Article 131); "to expose the life or health of another to direct and imminent danger" (Article 132); "to disseminate disease or plague that may cause damage to forests, cultivation or livestock of economic utility" (Article 259); "to induce an epidemics through the release of pathogens into the atmosphere" (Article 267); "to violate a determination by public authorities, designed to prevent the introduction or release of an infectious disease" (Article 268); "for a medical doctor, to refrain from informing to the public authorities about a disease that is of compulsory notification" (Article 269); "to poison drinkable water of general or private use, or food or medicine designed for consumption" (Article 270).

production, sale and use of techniques, methods and substances which represent a risk to life (…)";

- Act No. 8.974, of January 5, 1995[15], introduces security norms and supervision mechanisms on the use of techniques of genetic engineering in the construction, breed, manipulation, transport, commercialization, consumption, release to the environment and disposal of genetically modified organisms (GMOs); establishes the National Technical Bio-safety Commission[16] (CTNBio), which is responsible for the supervision of those activities; and prohibits physical persons, while acting as independent autonomous agents, to carry out activities and projects, including teaching, scientific research, technological development and industrial production which may involve genetically modified organisms in the national territory.

- Provisional Measure No. 2.186-16, of August 23, 2001[17], forbids "access to genetic heritage with the aim of (…) developing biological and chemical weapons" (Article 5).

- Provisional Measure No. 2.191-9, of August 23, 2001[18] determines that, besides controlling and monitoring activities and projects related to GMOs, it is incumbent upon the National Technical Bio-safety Commission to establish the bio-safety level to be applied to the GMOs and their uses, as well as the safety measures and procedures for their use, according to standards established by Law.

D. Means of delivery

Even before becoming a member of the MTCR, Brazil had incorporated into its national legislation all control guidelines adopted by regime members, which are contained in the following legal texts:

- Exposition of Reasons No. 35, of December 26, 1994[19], establishes general guidelines for the export of goods and services related to missiles. Contains instructions for conducting exports of goods and services directly related to missiles, and establishes a list of goods and services directly related to missiles that are subject to control.

- Act No. 9.112, of October 10, 1995, defines parameters for international transfers of sensitive goods.

- Decree No. 3.665, of November 20, 2000, updates document "Regulations for the Supervision of Controlled Products" (R-105), contained in Decree no.

[15] Published in the "Official Journal of the Union" of January 6, 1995. Text in Portuguese available at http://www.mct.gov.br/legis/leis/8974_95.htm#Art.%207°

[16] Regulated by Decree No, 1.752, of December 20, 1995 (published in the "Official Journal of the Union" of December 21, 1995) and updated by Decree No. 2.577, of April 30, 1998 (published in the "Official Journal of the Union" of May 4, 1998.

[17] Published in the "Official Journal of the Union" of August 24, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/mp/mp2186-16.htm

[18] Published in the "Official Journal of the Union" of August 24, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/mp/mp2191-9.htm

[19] Published in the "Official Journal of the Union" of December 30, 1994. Text in Portuguese available at https://www.planalto.gov.br

24.602, of July 6, 1934. This legal instrument provides, among other issues, for the control of means of delivery, parts and propellants.

E. Combating money-laundering

Brazil has been implementing a consistent policy for combating terrorism and organized crime, including by adopting measures designed to suppress their funding sources. In this context, an extensive legislation related to combating money-laundering has been adopted, which together with international agreements and regimes consecrated to this subject, provides for efficient measures aiming at curtailing money-laundering. The most relevant legal instruments in this area are:

- Act 9.613, of March 3, 1998[20], as well as its subsequent revisions[21], which define and penalize crimes related to money-laundering. It determines that the supervision and repression of illicit financial activities is incumbent upon the "Financial Activities Control Council" (COAF), within the Ministry of Finance. Along with COAF, the Department for Anti-Money-Laundering Compliance, Surveillance of Foreign Exchange Market and Disciplinary Actions (DECIF) of the Brazilian Central Bank, plays an important role in these efforts. This Act was recently revised in order to include, among crimes of money-laundering, the financing of terrorism[22].

- Decree No. 4.991, of February 18, 2004[23], created, within the Ministry of Justice, the Department for Recovering Assets and International Juridical Cooperation (DRCI), which is responsible for, among other functions, identifying threats and defining effective and efficient policies related to money-laundering, as well as fostering a culture of combat against these illicit acts. It is incumbent upon the DRCI to coordinate the "Cabinet for Integrated Management on Preventing and Combating Money-Laundering" (GGI-LD), established in December of 2003, which is responsible for maintaining a fluid and constant coordination among governmental institutions involved in the combat against money-laundering and organized crime. Within the GGI-LD, the "2004 National Strategy for Combating Money-Laundering" (ENCLA 2004) is being implemented, with very positive results to date[24].

[20] Published in the "Official Journal of the Union" of March 4, 1998. Text in Portuguese available at https://www.planalto.gov.br

[21] Act No. 10.647, of June 11, 2002, published in the "Official Journal of the Union" of June 12, 2002; Act No. 10.683, of May 28, 2003, published in the "Official Journal of the Union" of May 29, 2003; Act No. 10.701 of July 9, 2003, published in the "Official Journal of the Union" of July 9, 2003. All texts in Portuguese available at https://www.planalto.gov.br

[22] Act No. 10.701, of July 9, 2003., published in the "Official Journal of the Union" of July 9, 2003.

[23] Published in the "Official Journal of the Union" of February 2, 2004. Text in Portuguese available at https://www.planalto.gov.br

[24] Information about ENCLA, in Portuguese, is available at http://www.mj.gov.br/drci/lavagem/encla.htm

iii. Operative paragraph 3, literal (a)

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Brazil does not possess - and has never developed - nuclear, chemical and biological weapons. In conformity with its obligations derived from international instruments (Tlatelolco, NPT, CWC and BWC) and from existing national legislation, all nuclear, chemical and biological weapons are forbidden within the national territory.

Brazil applies control measures on materials, equipment and technologies that may be used in the production of WMDs, and has developed an adequate legislation for holding responsible and criminalizing unauthorized activities in this field, including those carried out by non-State actors.

The governmental organ responsible for establishing procedures, and other legal and administrative mechanisms necessary for the full implementation of export controls of sensitive goods and services, is the Inter-ministerial Commission for Export Control of Sensitive Goods, established within the Presidency of the Republic by Act No. 9.112, of October 10, 1995. Its competence was defined by Decree No. 4.214[25], of April 30, 2002.

National lists of sensitive goods, as well as a list of conventional materials for military use subject to the National Policy of Export of Materials for Military Use (PNEMEM), are contained in Inter-ministerial Regulation No. 631 MCT/MD, of November 13, 2001[26], issued in accordance with the prerrogatives conferred to the Ministries of Science and Technology and of Defense.

A. Nuclear

The organ responsible for implementing control measures is the National Commission for Nuclear Energy (CNEN), established by Act No. 4.118, of August 27, 1962. CNEN regulates and supervises all nuclear activities in Brazil. It is also responsible for primary interaction with the Brazil-Argentine Agency for Accounting and Control of Nuclear Material (ABACC) and for implementation of the Quadripartite Agreement between Brazil, Argentina, ABACC and IAEA (December 13, 1991), with regard to the control of nuclear material used in Brazilian facilities, which are under comprehensive IAEA and ABACC safeguards.

[25] Published in the "Official Journal of the Union" of May 2, 2002. Text in Portuguese available at https://www.planalto.gov.br

[26] Published in the "Official Journal of the Union" of November 16, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/portarias/631_2001.htm

ABACC is responsible for the administration and application of the Common System of Accounting and Control (SCCC) in all nuclear activities in Brazil and Argentina, with a view to ensuring that no material is diverted or used in an inappropriate or unauthorized manner, in conformity with the purposes of the Bilateral Agreement.

Brazil and Argentina are committed to prohibit and prevent in their respective territories, and to abstain from carrying out, promoting or authorizing, directly or indirectly, or from participating, in any way, in the testing, use, manufacture, production or acquisition by any means of any nuclear explosive device.

CNEN is the organ responsible for licensing nuclear facilities, by evaluating, among other aspects, conditions for their safe operation. It establishes procedural norms for extraction and manipulation activities in uranium/thorium mines. Its technical regulations and procedures of control regulate the use of nuclear material, including its transfer, storage and transport, in order to prevent unauthorized use, to detect possible diversions and to ensure compliance with obligations imposed by safeguard agreements (ABACC and IAEA).

B. Chemical

By force of Decree No. 3.665 of November 20, 2000 (R-105), which established supervision mechanisms for activities carried out by natural and legal persons on storage, use and transport of controlled products, it is incumbent upon the Brazilian Army to control chemical agents, its parts and means of delivery (Articles 1, 2, 7, 10, 39 and 40).

The "Inter-ministerial Commission for the application of the provisions of the International Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction", created by Decree No. 2.074 of November 14, 1996, is responsible for the implementation of the obligations derived from the CWC and the surveillance of all activities related to the Convention.

C. Biological

Besides the responsibilities incumbent upon the Brazilian Army in controlling biological agents (Decree No. 3.665, of November 20, 2000 (R-105)), the National Technical Bio-safety Commission also plays a role, by force of Act No. 8.974 of January 5, 1995 and of Provisional Measure No. 2.191-9 of August 23, 2001, in the monitoring and supervision of use of techniques of genetic engineering in the construction, breeding, manipulation, transport, commercialization, consumption, release to the environment and disposal of genetically modified organisms (GMOs).

D. Means of delivery

Decree No. 3.665 of November 20, 2000 (R-105) determines the responsibility of the Brazilian Army in controlling products with destructive power or any other property that may pose a risk to natural and legal persons (arms, explosives, pyrotechnic materials, ammunition, parts and components). With regard to activities related specifically to the production, development and commercialization of materials and equipment that may be used in the fabrication of missiles, this control is exercised by the Army Command. With regard to the transport of these products, requirements established by the Navy Command (in case of maritime transportation), by the Air Force Command (air transportation) or by the Army Command (terrestrial transportation) must be observed.

iv. Operative paragraph 3 literal (b)

(b) Develop and maintain appropriate effective physical protection measures;

Brazil has incorporated in its legislation all norms related to the protection of sensitive materials and equipment derived from the various international agreements and control regimes to which the country is a party, as well as guidelines adopted by international organizations, such as IAEA and IMO. Brazil has also developed and implemented an adequate and efficient legislation in this field.

Regarding the transportation of sensitive goods (nuclear, chemical and biological), it is incumbent upon the Ministry of Transport to define the rules and procedures applicable throughout the national territory. Regulation No. 204, of May 20, 1997[27], updated by Resolution No. 420/2004, of February 12, 2004[28], contains the "Complementary Instructions to Regulations for Road and Railway Transportation of Dangerous Products"[29].

A. Nuclear

The National Commission for Nuclear Energy (CNEN) is the organ responsible for establishing general principles, norms and basic requirements for the physical protection of operational units whose activities are related to the production, usage, processing, reprocessing, manipulation, transport or storage of materials relevant to the Brazilian Nuclear Program. Those regulations, based on AIEA document INFCIRC 225, are available at CNEN's website[30].

The Brazilian Government has created a Protection System for the Brazilian Nuclear Program - SIPRON, through Decree-Law No. 1.809, of October 7, 1980[31], later regulated by Decree No. 2.210, of April 22, 1997[32]. This organ, of mixed membership, comprises representatives of Federal, State and Municipal Governments, private sector and foundations, which may have attributions related to the Brazilian Nuclear Program. It seeks to ensure integrated planning, coordination of actions and continued implementation of procedures aimed at responding to safety necessities related to Brazilian nuclear activities, facilities and projects, especially of personnel involved, as well as of the civilian population and of the environment.

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27 Published in the "Official Journal of the Union" of May 26, 1997. Text in Portuguese available at http://www.transportes.gov.br

28 Published in the "Official Journal of the Union" of April 31, 2004. Text in Portuguese available at http://www.transportes.gov.br

29 Full text, in Portuguese, of the "Complementary Instructions to Regulations for Road and Railway Transportation of Dangerous Products" (Annex I to Regulation No. 204) is available at http://www.transportes.gov.br/BaseJuridica/ProdutosPerigosos/AnexoPort204.htm

30 Texts, in Portuguese, of the relevant Regulations are available at http://www.cnen.gov.br/seguranca/normas.asp

31 Published in the "Official Journal of the Union" of October 8, 1980. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/1809_80.htm

32 Published in the "Official Journal of the Union" of April 23, 1997. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/2210_97.htm

B. Chemical

Provisions for the protection of controlled chemical materials, as well as definition of standards for the licensing of activities in this field by natural or legal persons, including necessary requirements, are contained in Decree No. 3.665, of November 20, 2000.

C. Biological

General principles applied to the security of biological materials are contained in Provisional Measure No. 2.186-16, of August 23, 2001, in which protection measures and restrictions on the access to genetic heritage and associated traditional knowledge are defined. The Provisional Measure also regulates the access to, and transfer of technology for the conservation and use of genetic heritage. Specific norms are stipulated by the National Technical Bio-safety Commission, especially with regard to genetically modified organisms.

It is incumbent upon the National Sanitary Surveillance Agency (ANVISA) to establish norms and to exert control over activities in the pharmaceutical field. Specific norms for the licensing of activities and for the production of medicine are contained in Resolution RDC No. 210/2003[33]. These norms aim also at ensuring the quality of medicine and to prevent the release of infectious agents into the atmosphere.

D. Means of delivery

Relevant legislation is contained in Decree No. 3.665, of November 20, 2000 (R-105). It establishes regulations for the adequate supervision of protection measures related to products under control (means of delivery, its parts and propellants), the implementation of which is required from natural and legal persons.

[33] Published in the "Official Journal of the Union" of September 3, 2003. Text in Portuguese available at http://e-legis.bvs.br/leisref/public/showAct.php?id=12422#'

v. Operative paragraph 3 literal (c)

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

It is incumbent upon the Ministry of Finance, through the Federal Revenue and Customs Secretariat (SRF), to exert supervision and control of foreign trade, in accordance with Act No. 9.649, of May 27, 2004[34] and with Decree-Law No. 37, of November 18, 1966[35].

All information concerning international trade transactions are contained in the Foreign Trade Integrated System (SISCOMEX), which allows for the verification of every operation in relation to a specific authorization. In the case of commercial operations related to the export of sensitive goods, these can only occur once authorized by the General Coordination Office for Sensitive Materials, within the Ministry of Science and Technology (CGBE/MCT). For exports of nuclear material, it is also necessary to have previous authorization from the National Commission for Nuclear Energy (CNEN).

Transgressors are subject to a number of penalties established, among other instruments, by the Brazilian Penal Code (Decree-Law No. 2.848, of 1940) and by Act No. 9.112 of October 10, 1995.

Besides SRF, the Department of Federal Police (DPF), within the Ministry of Justice, also has competence in this area. In coordination with the Brazilian Armed Forces, DPF exerts supervision over border areas and has primary responsibilities in combating all forms of illicit trafficking.

The Brazilian Armed Forces have subsidiary responsibilities in maintaining surveillance and control over terrestrial, maritime and airspace borders. It is also incumbent upon them to implement preventive and repressive actions against trans-border and environmental offences, acting on their own or in coordination with other organs of the Executive branch. With regard to airspace control, the Brazilian Armed Forces count on the Brazilian Airspace Control System (SCEAB), which brings together all Integrated Centers for Air Defense and Airspace Control (CINDACTA), covering the whole country, and the System for the Vigilance and Protection of the Amazon (SIVAM/SIPAM).

[34] Published in the "Official Journal of the Union" of May 28, 1998. Text in Portuguese available at https://www.planalto.gov.br
[35] Published in the "Official Journal of the Union" of November 21, 1966. Text in Portuguese available at https://www.planalto.gov.br

vi. Operative paragraph 3 literal (d)

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

The development and production of weapons of mass destruction in Brazil are prohibited by the Federal Constitution of 1988 and existing international obligations. National controls apply, therefore, to precursor goods and technologies. Export, re-export, transit and transportation of these goods and technologies are controlled so as to ensure their exclusive use for peaceful purposes.

The General Coordination Office for Sensitive Materials, within the Ministry of Science and Technology (CGBE/MCT), the competence of which is provided by Regulation No. 49, of February 16, 2004, is the organ responsible for controlling imports, exports and re-exports of sensitive goods. The CGBE implements controls and authorizes transfers of items contained in the National Lists of Control of Sensitive Goods and Technologies, after necessary consultations with other governmental organs involved. This activity is undertaken on-line, through the Foreign Trade Integrated System (SISCOMEX). This system enables the automatic detection of non-authorized imports, exports and re-exports, by centralizing all information on transfers at Brazilian borders. Penalties for fraudulent exports attempts are established, among other instruments, by Act No. 9.112, of October 10, 1995.

On a case-by-case analysis of transfer requests, the CGBE may require the issuance of a "Statement of End-Use/User" by the Government of the State to which the goods will be exported to, which will be examined accordingly. The CGBE also takes part in the preparation of these statements when the Brazilian Government is required to do so. In these cases, it is incumbent upon the CGBE to supervise the implementation of the assurances provided in the Statement by the contracting party.

vii. Operative paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

It is incumbent upon the Inter-ministerial Commission for Export Controls of Sensitive Goods, in conformity with Article 5 of Act No. 9.112, of October 10, 1995, to prepare, update and publicize lists of sensitive goods under export controls.

The current version of the list of controlled sensitive goods was established by Inter-ministerial Regulation No. 631 MCT/MD, of November 13, 2001. This Regulation updates the List of Sensitive Goods and the List of Conventional Materials for Military Use subject to the National Policy of Export of Materials for Military Use (PNEMEM), in accordance with the competences of the Ministries of Science and Technology and of Defense, by revising the items contained in the Annexes of those lists. The regulation establishes, in Article 2, that it is "incumbent upon the Ministry of Defense to update the list contained in Annex I and, to the Ministry of Science and Technology (to update) the list contained in Annex II, which refers to items in the chemical area and means of delivery".

In the nuclear field, Decree No. 1.861, of April 12, 1996, regulated Act No. 9.112, of October 10, 1995, and established national guidelines for the export of sensitive goods and services. These guidelines impose procedures for Brazilian exports of any related equipment, material or technology identified under the List of Nuclear Equipment, Material and Technology or under the List of Dual-Use Equipment and Material and Related Technology, that may be applicable in nuclear activities, which were established by Regulation No. 61, of April 12, 1996, by the former Strategic Affairs Secretariat of the Presidency of the Republic - SAE/PR.

Both lists are updated periodically, with an aim to keeping them in line with Brazilian legislation and with decisions adopted within the Nuclear Suppliers Group (NSG). This revision activity, incumbent upon the Inter-ministerial Commission for Export Controls of Sensitive Goods, is provided by Decree No. 4.214, of April 30, 2002. This Decree also established the competences of the Inter-ministerial Commission. Provisional Measure No. 2.123-30, of March 27, 2001, determined that the Ministry of Science and Technology would coordinate the works of Inter-ministerial Commission.

In the chemical area, Ministerial Regulation No. 804, of December 13, 2001, publicized the lists of substances identified by the CWC that are subject to export controls by the Ministry of Science and Technology. Likewise, Regulation No. 275, of April 23, 2002, established import controls.

In the biological area, Normative Instruction No. 1, of July 8, 2002, by the Ministry of Agriculture, Livestock and Food Supply (MAPA), establishes norms for the import of materials designed for scientific research, including organisms for biological control and other specific purposes. In a meeting held in September 2004, the Inter-ministerial Commission for Export Controls

of Sensitive Goods decided to establish a working group which will be responsible for defining criteria for the preparation of a national control list in the biological area.

Regarding means of delivery, Exposition of Reasons No. 35, of December 12, 1994 (EM 35/94 - SAE/PR) established General Guidelines for Exports of Goods Related to Missiles and Directly Related Services, and Instructions for the Conduct of Exports of Goods Related to Missiles and Directly Related Services, as well as the List of Goods Related to Missiles and Directly Related Services.

viii. Operative paragraph 8 literal (a)

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

According to the Brazilian legal system, international agreements to which Brazil is party have the same status as internal laws. They are thus compulsory to State and non-State actors subject to national jurisdiction. In this regard, it is important to note that Brazil is party to the following treaties, agreements and international regimes related to disarmament, non-proliferation and control of sensitive technologies and materials:

- International Atomic Energy Agency - IAEA

Brazil has been a member of the IAEA since 1957. It participates in an active and constructive manner in the work of the Agency, with the aim of ensuring the right to the peaceful use of nuclear technology and to promote international cooperation in this field.

- Treaty of Tlatelolco (Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean)

Subscribed by Brazil on May 9, 1967, the Treaty entered into force for Brazil on September 16, 1994. The Treaty established the first nuclear weapon free zone of the world in an inhabited region. It aims at contributing to nuclear non-proliferation, to promote disarmament and to ensure the use of nuclear materials and facilities for exclusively peaceful purposes. It is also the first international legal instrument to define a nuclear weapon. Among its provisions are the so-called "negative security assurances", which oblige the five nuclear weapon States to respect the non-nuclear status of the region and to renounce the use (and to threat of use) of nuclear weapons against States Parties to the Treaty.

- Bilateral Agreement between Argentina and Brazil for the Exclusively Peaceful Use of Nuclear Energy

In August 20, 1991, Brazil and Argentina bilaterally committed themselves to use nuclear material and facilities under their jurisdiction or control for exclusively peaceful purposes. Consequently, they have undertaken to prohibit and prevent, in their respective territories, and to abstain from carrying out, promoting or authorizing, directly or indirectly, or from participating in any way in the testing, use, manufacture, production or acquisition by any means of any nuclear weapon, and in the receiving, storing, installing, deploying, or possessing in any other form any nuclear weapon.

- Brazil-Argentine Agency for Accounting and Control of Nuclear Materials - ABACC

Established by the Bilateral Agreement between Argentina and Brazil for the Exclusively Peaceful Use of Nuclear Energy, in August 1991, ABACC is an entity with international legal personality, aimed at administering and implementing the Common System of Accounting and Control of Nuclear Materials (SCCC). This system comprises a number of procedures applicable to all nuclear material in all nuclear activities undertaken in Brazil and Argentina, with a view to ensuring both parties of the exclusively peaceful use of such materials and technologies.

- Quadripartite Agreement between Argentina, Brazil, ABACC and IAEA for the Application of Safeguards

By means of this Agreement, signed in December 13, 1991 and ratified in February 24, 1994, Brazil undertook to accept safeguards, carried out by IAEA, on all nuclear materials in all nuclear activities within its territory, under its jurisdiction and carried out under its control anywhere, for the purpose of assuring the international community of the exclusively peaceful use of those materials.

- Nuclear Suppliers Group - NSG

In 1996, Brazil became a member of this Group, which aims at contributing to the non-proliferation of nuclear weapons through the implementation of export control guidelines for items and technologies that may be used in the nuclear field and in related areas.

- Comprehensive Test Ban Treaty - CTBT

Brazil signed the treaty on September 24, 1996 and ratified it on July 24, 1998. Within the context of the Treaty and of its Preparatory Commission, Brazil works with a view to promote its early entering into force and universalization. Once in force, the CTBT will constitute a powerful means to discourage the proliferation of nuclear weapons, therefore contributing to the global efforts designed to prevent non-State actors from gaining access to weapons of mass destruction.

- Non-Proliferation Treaty - NPT

On September 18, 1998, Brazil adhered to the Non-Proliferation Treaty. As a Party to the NPT, Brazil is fully committed to the promotion of its main objective - the complete elimination of nuclear weapons. For Brazil, both nuclear disarmament and non-proliferation, as provided for in the NPT, are key elements in ensuring that non-State actors do not gain access to those weapons.

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction - CWC

Brazil signed the CWC on January 13, 1993 and ratified it on March 1, 1999. Since then, it has been a paragon in implementing the obligations contained in the Convention. The General Coordination Office for Sensitive Goods, within the Ministry of Science and Technology (CGBE/MCT), is the national authority in charge of supervising the application of CWC provisions in Brazil. In this context, CGBE has developed efficient channels of interaction with the national chemical industry, enabling the dissemination of knowledge on the provisions of the Convention and the necessary measures in order to ensure its implementation. These efforts contribute to the full achievement of the objectives of OPCW inspections carried out in Brazilian private facilities which are involved in activities controlled by the Convention.

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC)

Brazil ratified the BWC in 1973. The General Coordination Office for Sensitive Goods, within the Ministry of Science and Technology (CGBE/MCT), is the national authority in charge of supervising the application of CBW provisions in Brazil. In this context, CGBE has developed efficient channels of interaction with the industry, enabling the dissemination of knowledge on the provisions of the Convention and the necessary measures in order to ensure its implementation.

- Missile Technology Control Regime - MTCR

Brazil became a member of the MTCR in October 1995, after internal legislation on export controls of sensitive goods was adopted by means of Act No. 9.112, of October 10, 1995.

- Convention on the Physical Protection of Nuclear Material

Brazil ratified the Convention on April 16, 1991. The Convention determines the levels of physical protection necessary during international transport of nuclear materials for peaceful purposes.

- Conventions against Terrorism in the context of the United Nations and of the Organization of American States

Brazil is party to a number of treaties and conventions against terrorism in the context of the United Nations and of the Organization of American States, such as

i) Convention on Offences and Certain Other Acts Committed on Board Aircrafts;

ii) Convention to Prevent and Punish the Acts of Terrorism Taking the Forms of Crimes Against Persons and Related Extortion That Are of International Significance;
iii) Convention for the Suppression of Unlawful Seizure of Aircraft;
iv) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
v) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons;
vi) International Convention against the Taking of Hostages[36];
vii) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
viii) Convention on the Marking of Plastic Explosives for the Purpose of Detection;
ix) Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Related Materials; and
x) International Convention for the Suppression of Terrorist Bombing.

The National Congress is currently examining three other Conventions related to the fight against terrorism:

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, negotiated under the auspices of the International Maritime Organization;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, under the auspices of the International Maritime Organization; and the
- International Convention for the Suppression of the Financing of Terrorism.

- United Nations Security Council Resolutions on Terrorism

Brazil has incorporated Security Council Resolution 1373 (2001) to its legal system by Presidential Decree No. 3.976, of October 18, 2001. The obligations contained therein are being strictly complied with, as reflected in the four reports sent to the UNSC Counter-Terrorism Committee since 2001.

- Convention against Transnational Organized Crime - Palermo Convention

By ratifying the Palermo Convention, in April 12, 2004, Brazil is in a position to undertake even more efficient cooperative actions in combating criminal organizations that operate on a transnational basis, with positive effects in the fight against terrorism.

[36] With the reservation provided under Article 16(2).

- Financial Action Task Force against Money Laundering - FATF

Thanks to its modern and comprehensive national legislation on money laundering and to the competent role played by the relevant governmental organs (the Council for Financial Activities Control, within the Ministry of Finance, and the Brazilian Central Bank), Brazil has attained full compliance with the 40 recommendations on combating money-laundering adopted by the FATF.

ix. Operative paragraph 8 literal (b)

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

In addition to international treaties and agreements, extensive national legislation on the nuclear, chemical and biological areas, as well as on means of delivery, is in force.

x. Operative paragraph 8 literal (d)

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

The General Coordination Office for Sensitive Goods, within the Ministry of Science and Technology (CGBE/MCT), and the National Commission of Nuclear Energy (CNEN) are in constant interaction with industrial sectors involved in activities related to sensitive goods and technologies, as well as with their representative associations, so as to enable the adequate dissemination of the norms, regulations and obligations that apply to their activities.

In the first semester of 2004, the Brazilian Government started implementing an initiative called "Project Sciences" ("Projeto Ciências"), carried out by CGBE/MT and by the Brazilian Intelligence Agency (ABIN), intended at informing the private sector about obligations and commitments related to export controls undertaken by Brazil at the international level, as well as stressing the need for full observance of internal legislation. This work is currently carried out through visits of Federal Government representatives to chemical industries; in the near future, these will be extended to all industries involved in activities related to sensitive goods. These contacts establish channels of interaction that enable the dissemination of criteria, procedures and control mechanisms to the private sector, while helping to preclude any undue attempts of transfer of controlled goods, services and technologies.

xi. Operative paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The participation of Brazil in the Brazil-Argentine Agency of Accounting and Control of Nuclear Material (ABACC) is the result of close cooperation and understanding with the Republic of Argentina, through which both countries committed themselves to abstain from carrying out, promoting or authorizing, directly or indirectly, or from participating in any way in the testing, use, manufacture, production or acquisition by any means of any nuclear weapon, and in the receiving, stockpiling, installing, deploying, or possessing in any other form any nuclear weapon.

In 1999, under the coordination of the Ministry of Justice, an initiative involving various governmental branches was launched in order to prevent the illicit trafficking of nuclear and radioactive materials in MERCOSUL (Argentina, Brazil, Paraguay and Uruguay, and associated members Bolivia and Chile). On June 16, 2000, as a result of this initiative, the General Plan for Reciprocal Cooperation and Coordination for Regional Security, adopted through Decision CMC No. 22/99 (XVII Council of the Common Market, Montevideo, December 7, 1999), was modified so as to include operational and coordination activities for the prevention and combating of illicit trafficking of nuclear and/or radioactive materials.

The initiatives undertaken by the Brazilian Government in the area of technology exchange with friendly countries contribute to consolidate the high priority attributed to full compliance with international treaties and agreements related to disarmament and non-proliferation, based on scientific and technological development for exclusively peaceful purposes.

Brazil reiterates, in all fora and events dedicated to the promotion of cooperation in the area of non-proliferation, the necessity of strengthening the mechanisms for the exchange of information and cooperation among States, in particular among intelligence services.

As a member of IAEA, Brazil has voluntarily adhered to the group of 75 countries that contribute to the IAEA Illicit Trafficking Data Base (ITDB), established in 1993. This Group is responsible for sharing with the IAEA information and reports related to incidents involving the trafficking of nuclear and other radioactive materials. The Bureau of the ITDB issues regular reports listing those incidents and sends them to national focal points, members of IAEA and organizations that cooperate with the Agency. CNEN is the focal point for ITDB activities in Brazil.